

Senate Bill No. 1206

CHAPTER 466

An act to add Section 31539 to the Government Code, relating to county employees' retirement.

[Approved by Governor September 10, 2004. Filed with Secretary of State September 10, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1206, Soto. County employees' retirement: correction of errors.

The County Employees Retirement Law of 1937 prescribes benefits for members of county and district retirement systems subject to the act. Those benefits are based, in part, on a calculation of the member's final compensation, as defined. Management of each of those retirement systems is vested in a board of retirement, except in specified circumstances.

This bill would authorize the board of retirement to recalculate a member's retirement benefits, and to recover any overpayment of benefits, if the member made, or caused to be made, fraudulent compensation reports or directly or indirectly caused the member's final compensation to be overstated for purposes of the calculation of benefits. The period of limitation of actions under the bill's provisions would be 10 years, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 31539 is added to the Government Code, to read:

31539. (a) The board of retirement may, in its discretion, correct any error made in the calculation of a retired member's monthly allowance or any other benefits under this chapter, if either of the following exist:

(1) The error in the calculation of the member's monthly allowance or other benefits under this chapter was made as a result of fraudulent reports for compensation made, or caused to be made, by the member for his or her own benefit.

(2) The member caused his or her final compensation to be improperly increased or otherwise overstated at the time of retirement and the system applied that overstated amount as the basis for calculating the member's monthly retirement allowance or other benefits under this chapter.

(b) The retirement allowance or other benefits under this chapter with respect to a retired member described in subdivision (a) shall be adjusted prospectively to the amount that would have been payable if the overstatement of the member's final compensation had not occurred.

(c) Adjustment of the member's retirement allowance or other benefits may also be implemented retroactively and include the collection or return of the overpayment of benefits. The board of retirement may direct staff to correct the overpayment of benefits by offsetting the amount to be recovered against future benefits. Adjustments to correct the overpayment of benefits may also be made by adjusting the allowance so that the retired member or the retired member and his or her beneficiary, as the case may be, will receive the actuarial equivalent of the allowance to which the member is entitled.

(d) The rights and remedies provided in this section are in addition to any other rights and remedies any party may have at law or in equity. Nothing in this section shall preclude any party from instituting an action for declaratory or other relief in lieu of proceeding under this section.

(e) The period of limitation of actions under this section shall be 10 years and that period shall commence either from the date of payment or upon discovery of the facts described in subdivision (a), whichever date is later. The board shall determine the applicability of the period of limitation in any case, and its determination with respect to the running of any period of limitation shall be conclusive and binding for purposes of correcting the error.

